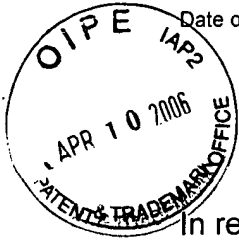


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: L. Biedermann et al.

Appln. No.: 10/660,452

Filed: September 11, 2003

For: INTERVERTEBRAL DISK
PROSTHESIS

Attorney Docket No: 7948/16

Examiner: D. Willse

Art Unit: 3738

RESPONSE TO ELECTION/RESTRICTIONS REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner Willse:

This paper is in response to the restriction requirement mailed February 8, 2006. In the restriction requirement, the Examiner indicated that there were four patentably distinct species of the claimed invention: the first species or embodiment of Figures 1 and 2; the second species or embodiment of Figures 3 and 4; the third species or embodiment of Figure 5; and, the fourth species or embodiment of Figures 6 and 7.

The restriction requirement is acknowledged and Species II is elected with traverse. Species II is readable on Claims 7-8 and 11-16 and 18. Claims 7 is a generic or linking claim to Species II, III and IV and claim 18 is generic to all species. The restriction requirement is respectfully traversed. Applicant reserves the right to file applications to pursue non-elected inventions.

The point of a restriction requirement is to lessen the burden on the Examiner, on the grounds that too many inventions are presented, and these separate inventions cannot be covered in one reasonable search by the Examiner. The office action does not claim that there are separate inventions classified in different classifications, but rather that the claims are directed to species of a genus. It should not be a burden on

the Examiner to search for all of species in this case, rather than one, and the Examiner is respectfully requested to withdraw the species restriction requirement.

There are only four species, and if generic or linking claims (claims 7 or 18) are allowed, the restriction requirement must be withdrawn, and the claims examined.

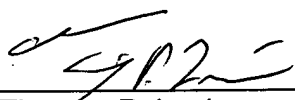
M.P.E.P. 809 at 800-48 (8th ed. Rev. 2). Accordingly, it may be less burdensome on the Examiner to examine multiple species at once, rather than repeating the process.

Applicants have elected Species II and listed the claims readable thereon. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

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